

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

CITY OF SEATTLE, a municipal corporation located in the County of King, State of Washington,

Plaintiff,

V.

MONSANTO COMPANY, SOUTHERN  
INC., and PHARMACIA  
CORPORATION, and Does 1 through 100,

## Defendants.

Case No. 2:16-cv-00107-RSL

**AMENDED ORDER GRANTING  
DEFENDANT MONSANTO  
COMPANY'S MOTION TO  
COMPEL RESPONSE TO  
MONSANTO COMPANY'S  
SPECIAL INTERROGATORIES  
AND REQUESTS FOR  
PRODUCTION**

This matter comes before the Court on Defendant Monsanto Company’s Motion to Compel Plaintiff City of Seattle to Respond to Defendant’s Special Interrogatories and Requests for Production. Dkt. # 118. In this tort action, Plaintiff seeks relief from Defendant and its predecessors under negligence and public nuisance theories for alleged contamination in Seattle’s streets, stormwater, drainage, and waterways from Defendant’s production of polychlorinated biphenyls (“PCBs”). Dkt. #31 at ¶¶ 91-108, 130-137. In its Motion to Compel, Defendant primarily requests documents supporting Plaintiff’s

AMENDED ORDER GRANTING  
DEFENDANT'S MOTION TO COMPEL- 1

1 computation of damages initially requested in November 2017. Dkt. # 118 at 2. Plaintiff  
2 argues in response that it has already produced many of the requested documents, that it  
3 continues an arduous process of locating others, and that it plans to have turned over all  
4 requested documents by November 1, 2019. Dkt. #120 at 2-6. However, in electronic  
5 communication between all counsel and the Court on October 31, 2019, Plaintiff  
6 indicated that it had not turned over all of the documents Defendant requests. Plaintiff  
7 promised to have completed the production by November 18, 2019.

8 Defendant has carried its burden in demonstrating the relevance of the requested  
9 discovery. As the parties prepare for trial, Defendant must determine whether Plaintiff's  
10 computation of damages is accurate and adequately supported. *See Fed. R. Civ. P.*  
11 26(a)(1)(A)(iii) (requiring a disclosing party to "make available for inspection and  
12 copying as under Rule 34 the documents . . . on which each computation [of damages] is  
13 based . . . "); *City and Cnty. of San Francisco v. Tutor-Saliba Corp.*, 218 F.R.D. 219, 221  
14 (N.D. Cal. 2003) (requiring Plaintiff to produce documents supporting its computation of  
15 damages so that Defendant may "understand the contours of its potential exposure and  
16 make informed decisions as to settlement"). Plaintiff responds that in producing over two  
17 million documents, it has participated in the discovery process in "good faith." Dkt. #120  
18 at 7. However, the Rule requires more than good faith; it requires Plaintiff to make the  
19 requested documents available for inspection and copying. *Fed. R. Civ. P.*  
20 26(a)(1)(A)(iii).

21 Plaintiff has had ample time to produce the documents Defendant requests, and on  
22 which Plaintiff relied for its computation of damages. Plaintiff did not meet its own self-  
23 imposed deadline of November 1, 2019 and indicated it would need another few weeks to  
24 produce the documents.

1 In order to ensure both parties are able to adequately prepare for trial in September  
2 2020, Plaintiff is ORDERED to produce the requested documents by its second self-  
3 imposed deadline of November 18, 2019. Accordingly, Defendant Monsanto Company's  
4 Motion to Compel Plaintiff City of Seattle to Respond to Defendant's Special  
5 Interrogatories and Requests for Production is GRANTED.

DATED this 7th day of November, 2019.

Mrs Casnik

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**Robert S. Lasnik  
United States District Judge**